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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,861	04/15/2004	Jimmy TzeMing Pang	S104.12-0056/STL 11441	7109

7590 01/29/2007
Westman, Champlin & Kelly
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

EXAMINER

MERCEDES, DISMERY E

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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01/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/824,861

Applicant(s)

PANG ET AL.

Examiner

Dismerly E. Mercedes

Art Unit

2627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1, 8-15 and 18-20.
Claim(s) objected to: 25 and 26.
Claim(s) rejected: 24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


ANDREA WELLINGTON
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: As to independent claim 24, the combination of Wiselogel (US 6,130,796) in view of Emo et al. (US 6,260,257) discloses the claimed limitations. Wiselogel discloses identifying a last usable track on a recording media surface, beyond a default maximum track, as a function of a position error signal (PES) value; and defining a standoff band of tracks relative to the last usable track to obtain an achieved maximum track on the surface. Wiselogel discloses identifying a last usable, beyond a default maximum track, track as a function of a parameter (according to Applicant's definition of an usable on page 6, lines 1-7 of instant specification, the examiner believes Wiselogel discloses a last usable track as claimed, as depicted in Fig.4; when the actuator encounters an inner-outer diameter crash stop & as depicted in Fig.4, 201,204,102-104); and defining a standoff band of tracks relative to the last usable track to obtain an achieved maximum track on the surface (according to Applicant's definition of standoff band of tracks, page 6, lines 10-15 of instant specification, the examiner believes Wiselogel discloses a standoff band of tracks as claimed, as depicted in Fig.4, "102, 103, 104, and 203"; col.2, lines 35-50; col.4, lines 23-64). Wiselogel fails to particularly disclose the last usable track is identified as a function of a position error signal value. However, Emo et al. discloses such (figs.4-6, 8,10, 15-16). Emo et al. discloses that is well known in the art to use average PES and PES for adjusting crash stops (fig.4 col.3, lines 1-16). Therefore, it would have been obvious to of ordinary skill in the art at the time of the invention to modify the system as disclosed by Wiselogel with the disclosed teachings of Emo et al., the motivation to provide such method with the ability to detect crash stop location (last usable track) on the media, and increase the recording density of the disk drive. .